

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2452

Introduced by Assembly Member ~~Hall~~ Pan

February 21, 2014

~~An act to amend Section 17205 of the Probate Code, relating to trusts.~~
An act to amend Sections 4800, 4801, 4802, and 4806 of, and to add Sections 4801.5 and 4807 to, the Probate Code, and to add Section 12820 to the Vehicle Code, relating to advance health care directives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2452, as amended, ~~Hall~~ Pan. ~~Trusts; judicial proceedings.~~
Advance health care directive registry.

Existing law directs the Secretary of State to establish an Advance Health Care Directive Registry to receive and release specified information from a person who has executed a written advance health care directive. Existing law requires the Secretary of State to charge a fee to each registrant in an amount such that, when all fees charged to registrants are aggregated, the aggregated fees do not exceed the actual cost of establishing and maintaining the registry. Existing law provides that failure to register with the Secretary of State does not affect the validity of an advance health care directive.

This bill would require, commencing on January 1, 2016, the Secretary of State to establish and maintain access, as specified, to a secure portion of the Secretary of State's Internet Web site that provides an electronic reproduction of an advance health care directive and other specified documents submitted to the registry system. The bill would require this access to include the ability to view the electronic reproduction on the Internet Web site, as well as download, print, and

otherwise retrieve a copy of the electronic reproduction. The bill would, among other things, require the secretary to establish procedures to register, replace, and remove an advance health care directive, as specified.

This bill would also require, commencing on January 1, 2016, an application for an original or renewal driver's license or identification card to contain a space for the applicant to authorize the Department of Motor Vehicles to add a blue "wish" dot with a "white caduceus symbol" to each applicant's driver license or identification card signifying enrollment in the California Secretary of State's Advance Health Care Directive Registry. The application would be required to include check boxes for an applicant to mark acceptance, if desired, of the dot.

~~Existing law authorizes a trustee or a beneficiary of a trust to petition a court to make determinations about the trust or to establish the existence of a trust. Existing law prescribes the procedure governing these proceedings, which includes requiring a petitioner to cause a copy of the petition to be mailed to parties making this request, as specified.~~

~~This bill would make a nonsubstantive change in these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 4800 of the Probate Code is amended to*
2 *read:*
3 4800. (a) (1) The Secretary of State shall establish a registry
4 system through which a person who has executed a written advance
5 health care directive may register in a central information center,
6 information regarding the advance directive, making that
7 information available upon request to any health care provider,
8 the public guardian, or the legal representative of the registrant.
9 ~~A request for information pursuant to this section shall state the~~
10 ~~need for the information.~~
11 (2) *Commencing on January 1, 2016, the Secretary of State*
12 *shall establish and maintain access, as prescribed by this part, to*
13 *a secure portion of the Secretary of State's Internet Web site that*
14 *provides an electronic reproduction of an advance health care*
15 *directive and other documents described in subdivision (c)*
16 *submitted to the registry system. This access shall include the*

1 ability to view the electronic reproduction on the Internet Web
2 site, as well as download, print, and otherwise retrieve a copy of
3 the electronic reproduction.

4 (b) ~~The~~ Commencing on January 1, 2016, the Secretary of State
5 shall ~~respond~~ establish a process to register an advance health
6 care directive and submit personal information and documents to
7 the registry either by electronic submission or submission of paper
8 documents. Commencing on January 1, 2016, the ~~close~~ Secretary
9 of ~~business~~ ~~on~~ State shall establish a process to merge documents
10 in the ~~next business day~~ registry prior to January 1, 2016, with
11 the access system established in paragraph (2) of subdivision (a).
12 This process shall require a ~~request for information made pursuant~~
13 ~~person who registers an advance health care directive to~~ Section
14 ~~4717 by submit to the emergency department secretary all of a~~
15 ~~general acute care hospital.~~ the following:

16 (1) An application in a form prescribed by the Secretary of
17 State.

18 (2) A copy or electronic reproduction of the advance health
19 care directive.

20 (3) Any fee established by the Secretary of State pursuant to
21 subdivision (f).

22 (c) Information that may be received shall be limited to all of
23 the following regarding the registrant:

24 (1) Name.

25 (2) Social security number.

26 (3) Driver's license number, or other state issued individual
27 identifying number established by law, if any.

28 (4) Address.

29 (5) Date and place of birth.

30 (6) The registrant's advance health care directive.

31 (7) A values statement, questionnaire, or other document that
32 supplements the advance health care directive.

33 (8) Durable power of attorney form.

34 (9) A physician orders for life-sustaining treatment (POLST)
35 form.

36 (e)

37 (10) ~~Information that may be received is limited to the~~
38 ~~registrant's name, social security number, driver's license number,~~
39 ~~or other individual identifying number established by law, if any,~~
40 ~~address, date and place of birth, the registrant's advance health~~

1 ~~care directive, an~~ The intended place of deposit or safekeeping of
2 a written advance health care ~~directive, directive and the name and~~
3 ~~telephone number of the agent and any alternative agent.~~
4 Information that may be released upon request may not include
5 the registrant's social security number except when necessary to
6 verify the identity of the registrant. *other document described in*
7 *this subdivision.*

8 (11) *The name and telephone number of the agent and any*
9 *alternative agent.*

10 (d) *When the Secretary of State receives the items described in*
11 *subdivision (b) from a registrant, the secretary shall do all of the*
12 *following:*

13 (1) *Assign a registration number and password to access the*
14 *registry to the registrant.*

15 ~~(d)~~

16 (2) ~~When~~ *Issue* the Secretary of State receives information from
17 a registrant, the secretary shall issue the registrant an Advance
18 Health Care Directive Registry ~~identification~~ *registration* card
19 indicating that an advance health care directive, or information
20 regarding an advance health care directive, has been deposited
21 with the registry. *The information on the card shall include, but*
22 *not be limited to, the registrant's name, registration number, and*
23 *password to access the registry.* Costs associated with issuance of
24 the card shall be offset by the fee charged by the Secretary of State
25 to receive and register information at the registry.

26 (3) *Make or transfer an electronic reproduction of the advance*
27 *health care directive and other documents described in subdivision*
28 *(c) and post it to the registry and, if the person consents, a*
29 *statewide health information exchange system.*

30 (e) The Secretary of State, at the request of the registrant or his
31 or her legal representative, shall transmit the information received
32 regarding the written advance health care directive to the registry
33 system of another jurisdiction as identified by the registrant, or his
34 or her legal representative.

35 (f) The Secretary of State shall charge a fee to each registrant
36 in an amount such that, when all fees charged to registrants are
37 aggregated, the aggregated fees do not exceed the actual cost of
38 establishing and maintaining the registry.

39 SEC. 2. *Section 4801 of the Probate Code is amended to read:*

1 4801. (a) Notwithstanding any other law, the Secretary of
2 State shall limit access to the registry, including a registrant's
3 advance health care directive, personal information, and other
4 documents received, to when all of the following occur:

5 (1) The assigned registration number and password are
6 provided.

7 (2) Access to the advance health care directive is required
8 pursuant to a lawful order of a court of competent jurisdiction,
9 requested by the registrant or the registrant's legal representative,
10 requested by the public guardian, or requested by a provider of
11 health care to the registrant only for the purpose of providing
12 health care to the registrant.

13 (3) The Secretary of State determines that providing access to
14 the advance health care directive is in the best interest of the
15 registrant. However, a registrant or legal representative of the
16 registrant may access the advance health care directive of the
17 registrant for any purpose.

18 ~~The~~

19 (b) The Secretary of State shall establish procedures to verify
20 the identities of health care providers, the public guardian, and
21 other authorized persons requesting information pursuant to Section
22 4800. No fee shall be charged to any health care provider, the
23 public guardian, or other authorized person requesting information
24 pursuant to Section 4800.

25 (c) A request for access pursuant to this part shall state the need
26 for the information.

27 (d) The Secretary of State shall respond by the close of business
28 on the next business day to a request for information made
29 pursuant to Section 4717 by the emergency department of a general
30 acute care hospital when the request is made by means other than
31 through the Secretary of State's Internet Web site.

32 (e) Information that may be released upon request shall not
33 include the registrant's social security number except when
34 necessary to verify the identity of the registrant.

35 SEC. 3. Section 4801.5 is added to the Probate Code, to read:

36 4801.5. The Secretary of State shall establish procedures for
37 all of the following:

38 (a) The registration of an advance health care directive or other
39 document described in Section 4800 that replaces an advance

1 *health care directive or other document that is posted on the*
2 *registry.*

3 *(b) The removal from the registry of an advance health care*
4 *directive or other document described in Section 4800 that has*
5 *been revoked following the revocation of the advance health care*
6 *directive or other document or the death of the registrant.*

7 *(c) The issuance of a duplicate registration card or the provision*
8 *of other access to the registrant's registration number and*
9 *password if a registration card issued pursuant to this section is*
10 *lost, stolen, destroyed, or otherwise unavailable.*

11 *SEC. 4. Section 4802 of the Probate Code is amended to read:*

12 *4802. The Secretary of State shall establish procedures to advise*
13 *each registrant of the following:*

14 *(a) A health care provider may not honor a written advance*
15 *health care directive until it receives a copy from the ~~registrant.~~*
16 *registrant or accesses the advance health care directive from the*
17 *registry.*

18 *(b) Each registrant must notify the registry upon revocation of*
19 *the advance health care directive.*

20 *(c) Each registrant must reregister upon execution of a*
21 *subsequent advance health care directive.*

22 *SEC. 5. Section 4806 of the Probate Code is amended to read:*

23 *4806. (a) The Secretary of State shall work with the State*
24 *Department of ~~Public Health Services~~ and the office of the*
25 *Attorney General to develop information about end of life care,*
26 *advance health care directives, and registration of the advance*
27 *health care directives at the registry established pursuant to*
28 *subdivision (a) of Section 4800. This information shall be*
29 *developed utilizing existing information developed by the office*
30 *of the Attorney General.*

31 *(b) Links to the information specified in subdivision (a) and to*
32 *the registry shall be available on the Web sites of the Secretary of*
33 *State, the State Department of ~~Health Services~~, *Public Health*, the*
34 *Department of Motor Vehicles, the office of the Attorney General,*
35 *the Department of Managed Health Care, the Department of*
36 *Insurance, the Board of Registered Nursing, and the Medical Board*
37 *of California.*

38 *SEC. 6. Section 4807 is added to the Probate Code, to read:*

39 *4807. Commencing on January 1, 2016, the Secretary of State*
40 *shall, while establishing and maintaining electronic access to the*

1 registry and to the extent practicable, consult with any entity
2 licensed pursuant to Division 2 (commencing with Section 1200)
3 of the Health and Safety Code, to integrate a process for retrieving
4 documents and information stored in the Advance Health Care
5 Directive Registry from a statewide health information exchange
6 system.

7 SEC. 7. Section 12820 is added to the Vehicle Code, to read:

8 12820. (a) Commencing on January 1, 2016, an application
9 for an original or renewal driver's license or identification card
10 shall contain a space for the applicant to authorize the department
11 to add a blue "wish" dot with a "white caduceus symbol" to each
12 applicant's driver license or identification card signifying
13 enrollment in the California Secretary of State's Advance Health
14 Care Directive Registry. The application shall include check boxes
15 for an applicant to mark either one of the following:

16 (1) Yes, print a blue "WISH" dot with a "white caduceus
17 symbol" on my card.

18 (2) No, not at this time.

19 (b) The department shall inquire verbally of an applicant
20 applying in person for an original or renewal driver's license or
21 identification card at a department office as to whether the
22 applicant wishes to enroll in the Advance Health Care Directive
23 Registry. Failure or refusal to answer this question or check a box
24 on the application form shall not be a basis for the department to
25 deny an applicant a driver's license or identification card. The
26 department may direct the applicant to the California Secretary
27 of State Advance Health Care Directive Registry Program for
28 additional information.

29 (c) The following language shall be included with the question
30 required by subdivision (a):

31 "Marking "Yes" authorizes DMV to add a blue dot with a "white
32 caduceus symbol" to your license indicating enrollment in the
33 California Secretary of State's Advance Health Care Directive
34 Registry. You must enroll in the Advance Health Care Directive
35 Registry by contacting the California Secretary of State Registries
36 Program or by visiting the Internet Web site at
37 www.sos.ca.gov/ahcdr/. Only after DMV receives confirmation of
38 your enrollment in the Advance Health Care Directive Registry
39 and receives authorization provided on this form, may DMV add
40 the blue dot to your license or identification card. If you wish to

1 *remove your name from the registry you must contact the*
2 *California Secretary of State Registries Program (see back); DMV*
3 *can remove the blue dot from your licenses but cannot remove you*
4 *from the registry.”*

5 SECTION 1. ~~Section 17205 of the Probate Code is amended~~
6 ~~to read:~~

7 ~~17205. If a trustee or beneficiary has served and filed either a~~
8 ~~notice of appearance, in person or by counsel, directed to the~~
9 ~~petitioner or the petitioner’s counsel in connection with a particular~~
10 ~~petition and proceeding or a written request for a copy of the~~
11 ~~petition, and has given an address to which notice or a copy of the~~
12 ~~petition may be mailed or delivered, the petitioner shall cause a~~
13 ~~copy of the petition to be mailed to that person not later than five~~
14 ~~days after service of the notice of appearance or receipt of the~~
15 ~~request.~~